

Testimony of Katherine Bancroft before the Energy and Mineral Resources Subcommittee of House Natural Resources Oversight Hearing on Mining Reform

July 27, 2021

Mr. Chairman, Ranking Member, and Members of the Subcommittee,

Thank you for the opportunity to testify before you at today's oversight hearing about reforms to the Federal Government's mining laws and rules. My name is Katherine Bancroft, I am the Tribal Historic Preservation Officer (THPO) for the Lone Pine Paiute-Shoshone Tribe. The Interior Department (DOI) and the National Park Service (NPS), through the National Historic Preservation Act (NHPA), have granted me the responsibility of preserving our historic properties and cultural traditions. However, no title or job description can ever equal the innate responsibility I have always felt to care for our lands. The land provides for us, heals us, nurtures us and defines us as Indigenous People. Our culture, our homeland and our lives are inextricably linked.

Lone Pine, the town where I was born and have called home my whole life, sits in the place called Payahuunadü by my ancestors, meaning "the place where the water always flows." Here, along the eastern edge of California, where elevations reach 15,000 feet in the adjacent Sierra to below sea level on the other side, in Death Valley National Park. It has been our beloved homeland since time immemorial.

Currently our homeland is under threat of irrevocable destruction. A Canadian company, K2 Gold, is conducting exploratory drilling in hopes of advancing gold mining on Conglomerate Mesa, a pristine area traditionally stewarded by my people. K2 Gold is not the first. And because the federal government interprets its rules to mean mining is the "highest and best use" of public land, our way of life gets disregarded.

Conglomerate Mesa is the traditional homeland of my people, the Nüümü (Paiute) and Newe (Shoshone). This includes over 20,000 acres of public lands filled with natural beauty and wildlife host to a vibrant and productive ecosystem of rare and unique desert plants, as well as culturally sensitive and archeologically significant artifacts. For millennia, our peoples have relied on these lands for traditional cultural uses, including subsistence hunting, gathering edible and medicinal plants, listening to relatives share our stories, and engaging in traditional ceremony. The Mesa is home to threatened Joshua trees, Inyo Rock Daisies, and over two dozen federally recognized threatened and endangered species. To us it is a sacred place. To others it is a beautiful place to visit and hike, camp, hunt, stargaze, or take photographs. These visitors are welcome, and an important part of our local economy.

Three years ago, K2 Gold's predecessor violated their Social License to Operate (SLTO) and left town. And so far, the new owner has done nothing to convince us that they adequately respect this land and is operating without Social License from the local community. The company has

ignored our concerns and suggestions to avoid causing irreparable harm. Their promises ring hollow, and we will stand in the way of any future exploration or mining project. Mine claim staking throughout our traditional lands, including on Conglomerate Mesa, has privatized an entire region we hold sacred. The current operator proposes to build up to 5 miles of roads across Bureau of Land Management (BLM) land to access a 120-hole exploratory drilling project. Soon, BLM's Ridgecrest Field Office may offer a scoping period or conduct an Environmental Assessment (EA) under the National Environmental Policy Act (NEPA).

The General Mining Law of 1872 is a relic from the United States government's western expansion, including the seizure and destruction of Indigenous peoples' land and resources. This government must reform this law and its regulations to help correct this historic injustice, and ensure that mining does not occur without the free, prior, and informed consent of potentially impacted communities.

The federal government has the power to allow for more meaningful tribal consultation that seeks to achieve free, prior, and informed consent (FPIC). New rules can clarify the federal government's ability to deny mines that would cause unnecessary or undue degradation to our resources. For a century following passage of the General Mining Law of 1872, neither DOI nor the United State Forest Service (USFS) promulgated any regulations offering protections for our resources from mining. The time is now to update these mining rules.

New mining rules could guide the BLM Ridgecrest Field Office to conduct a dialogue with the affected Tribes, THPOs, and other relevant stakeholders to impose permit conditions on exploratory drilling and other mining activities near Conglomerate Mesa. In particular, any exploration permit should include cultural, archeological, and biological resource monitoring and protections with provisions to ensure enforcement. Updated rules can also provide BLM and USFS discretion to deny some permits for certain mining infrastructure or land uses ancillary or incidental to mining activities.

History has taught us to be skeptical of companies coming into our communities with grand promises of jobs and prosperity in exchange for exploiting our natural resources. Too often such companies take the wealth from the land and leave the mess. Communities across the country are living with pollution from mining, and taxpayers—not those responsible for the pollution—too often paying for cleanup.

For decades the mining lobby has blocked much-needed 1872 Mining Law reform that would fairly treat impacted communities, taxpayers, and mining companies. From Oak Flat in Arizona to the Salmon River in Idaho to Thacker Pass/Rotten Moon in Nevada, the cycle of oppression continues: the voices of Indigenous communities are pushed to the side in the name of a form of “progress” that creates disproportionate impacts and distributes inequitable benefits.

American taxpayers shoulder an enormous financial burden from hardrock mining. Metal mining is the nation's largest toxic polluter, responsible for polluting 40 percent of the headwaters of western watersheds. And unlike coal miners, hardrock miners pay no reclamation fee, leaving taxpayers a \$50 billion cleanup bill for 500,000 abandoned hardrock mines. We need

to hold the mining industry accountable for its pollution to protect communities, save taxpayer dollars, and create jobs cleaning up old mines.

As part of the Build Back Better plan, the Biden-Harris administration must source minerals more responsibly by strengthening mining oversight, ensuring mining alternatives are adequately considered, and requiring meaningful tribal consultation. Industrial-scale mining should not trump other important land uses, such as sacred and cultural site protection, drinking water supplies, conservation, and tourism.

The renewable energy transition must not touch off the kind of mining rush that has historically killed or displaced untold numbers of Indigenous and other marginalized peoples, destroyed sacred and cultural resources, stolen lands, scarred landscapes, and polluted water and climate. The just, equitable, and fair 21st century renewable energy transition demands meaningful reform of this 19th century mining law and its 20th century rules.

On July 11, my community participated in tracing a portion of the route upon which our ancestors were forced to march 154 years ago by military militia who had deceived them with false promises of food and shelter inside the walls of Fort Independence. Once inside, they were imprisoned in caves until about 1000 of them had been confined; they were then forced to march approximately 250 miles to Fort Tejon. Some of them were killed, escaped, or died along the way. My great-grandmother, then a child, managed to escape Fort Tejon and returned to our ancestral home. Her life is a testimony on how much this place means to us.

I dream for the next generation to feel genuinely seen by the United States government in a way that I and my ancestors, have never been. They must know that our history is recognized, and that our values are reflected in the decisions that affect our land.

Thank you again for allowing me to share my testimony. I look forward to answering your questions.